



MASSWILDLIFE

## DIVISION OF FISHERIES & WILDLIFE

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**MASS.GOV/MASSWILDLIFE**

Jack Buckley, *Director*

### WALKING TRAILS

#### POLICY OF THE COMMONWEALTH OF MASSACHUSETTS DIVISION OF FISHERIES AND WILDLIFE

**Approved by the Fisheries & Wildlife Board**

**August 23, 2016**

#### **I. Massachusetts Division of Fisheries and Wildlife Mission and Trail License Conditions**

This Walking Trails Policy has been formulated by the Massachusetts Division of Fisheries and Wildlife (MassWildlife) in response to increasing trails usage at Wildlife Management Areas (WMAs). It is a policy informed by the broader Wildlife Lands Policy (Exhibit 1), which recognized MassWildlife's statutory mandates of (A) the biological protection and management of all fish, wildlife, and rare species in the Commonwealth; and (B) managing and providing hunting, fishing, and trapping opportunities for the public. It is against the backdrop of these statutory mandates that both the Wildlife Lands Policy and this Walking Trails Policy have been developed.

MassWildlife is aware of the rapidly growing public demand for outdoor recreational activities. In MassWildlife's experience, marked recreational trails do not advance and in most cases directly conflict with MassWildlife's statutory mandates. For example, recreational trails have been shown to fragment and degrade habitat, disrupt wildlife, and compromise biodiversity. Accordingly, MassWildlife does not construct or maintain trails designed for recreational passage (as opposed to access for pursuit of wildlife-dependent recreation). Furthermore, MassWildlife strongly discourages and does not normally permit trail maintenance by outside groups on WMAs or Access Areas, and will consider requests for such maintenance only as a very rare and occasional exception to MassWildlife's established preference for unimproved properties where public access is dispersed and not concentrated by trails.

MassWildlife recognizes that, in certain situations, passage across MassWildlife lands is desired to maintain the connectivity of existing major walking trails. In such cases, MassWildlife may license an outside group to mark, improve, and maintain a segment of an existing major walking trail (Licensed Trail) crossing one of MassWildlife's WMAs or Access Areas, subject to the following conditions:

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1. For purposes of this policy, except as otherwise provided, only the following trails that cross one of our WMAs shall be considered existing major walking trails:
  - a. Bay Circuit Trail
  - b. Wapack Trail
  - c. Mid State Trail
  - d. New England National Scenic Trail
  - e. Tully Trail
  - f. Robert Frost Trail
2. Each segment of an existing major walking trail crossing a WMA shall be identified separately in a Trail License Agreement (Exhibit 2).
3. The proponent of the trail shall be an organization or group with adequate resources and staff or volunteer capacity to meet the obligations imposed by MassWildlife's Trail License Agreement, which it must sign as a condition of approval. The maximum term of any such license is five (5) years, after which such License may be considered by MassWildlife for renewal. Licenses are revocable at the discretion of MassWildlife during or at the conclusion of the License term. An initial License term of one (1) or two (2) years may be appropriate as determined by MassWildlife in its sole discretion.
4. The attributes of any Licensed Trail must be consistent with the standards outlined in MassWildlife's Trail Standards (Section V, below), unless specifically excepted by MassWildlife in its sole discretion.
5. Recreational use of a Licensed Trail must not cause undue harm to the biological resources of the property. MassWildlife retains the right to close and block usage of any trail that is damaged by any form of use, or to direct the Licensee to do so.
6. Recreational use of a Licensed Trail must not impede or interfere with (a) general public access for wildlife-dependent recreation consistent with MassWildlife's statutory mission, including hunting, fishing, and trapping or (b) wildlife habitat restoration or management work.
7. Specific locations and routes of a Licensed Trail are subject to approval by MassWildlife. Direct (not meandering) routes from point of entry onto a WMA to the point of exit from such WMA may be permitted, and must utilize an existing trail bed, unless specifically excepted by MassWildlife in its sole discretion.
8. MassWildlife may temporarily close or re-route trails, at its sole discretion, for biological or management purposes.
9. The presence of a trail on any map or software application not specifically authorized by MassWildlife does not constitute endorsement or acceptance of any such trail under this policy.
10. Any license issued under this policy may be revoked for noncompliance with the terms of the license.

11. With the advice and consent of the Fisheries and Wildlife Board, the Director of MassWildlife shall retain the authority and discretion to make exception to this policy and may license a trail that does not meet the definition of existing major walking trail. In exercising this discretion, which rarely shall be utilized, the Director shall be guided by the purposes and terms of the Wildlife Lands Policy.

## **II. Proposal to License an Existing Major Trail**

A request for a Licensed Trail within a WMA requires submission of a detailed description of the project (the Proposal) to the Chief of Wildlife Lands, including the following information:

1. Proponent's name, address, and contact information
2. Introduction and project background
3. Demonstration of need, including a map with GPS track of proposed trail route and waypoints at intersection with any roads, trails, wetland resources, and other points of interest, and including connectivity with established major regional trail corridors
4. A topographic map of the trail
5. An orthophoto map of the trail
6. A map of the trail showing Priority and Estimated Habitat areas, BioMap2 resources, certified and potential vernal pools, and ecologically significant natural communities.
7. A narrative showing compliance with each of the numbered paragraphs of Section I, above
8. A map of the trail in landscape context, highlighting the intersection of the trail and any WMA

## **III. Proposal Review**

The Chief of Wildlife Lands will distribute the Proposal to the Assistant Director for Field Operations and to the District Manager of any Wildlife District affected by the Proposal. MassWildlife will respond to a Proposal once it receives all required information and will indicate whether the demonstration of need and proposed compliance with Section I are potentially acceptable. In making this determination, MassWildlife may require additional information, analysis, and documentation, including but not limited to discussion of alternate routes, and reserves final authority regarding all matters pertaining to natural resource and wildlife issues under this discretionary policy.

Once an initial determination is made, MassWildlife will so notify the proponent, including any specific design considerations or other feedback considered appropriate. If the proposal is deemed potentially acceptable, the following additional information shall be required (Project Plans):

1. Description of methodology including:
  - a. Timing considerations, especially regarding wildlife and hunting seasons;
  - b. Information on design and materials for trail maintenance, erosion control, grading, surfacing, drainage, bridges or other structures, and any other design characteristics consistent with MassWildlife's Trail Standards (Section V, below) and with other generally recognized standards.
2. Analysis of all applicable federal, state, and local regulations including, but not limited to the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, Section 40, and the Massachusetts Endangered Species Act, M.G.L. Chapter 131A, together with their implementing regulations. Compliance with all applicable provisions shall be demonstrated to the satisfaction of MassWildlife.
3. Analysis of trail impacts on hunting, fishing, and trapping.
4. Analysis of trail impacts on wildlife, including breeding, migration, foraging, and habitat use.
5. Analysis of trails impacts on state-listed species, where applicable.
6. Analysis of whether the trail has the support of landowners abutting the affected area.
7. Restoration Plan for areas below Trail Standards, including:
  - a. Restoration of impacted areas with native vegetation, if applicable
  - b. Description of measures to prevent and eradicate invasive and exotic plant species within and adjacent to the trail
  - c. Erosion control and mitigation
  - d. Other mitigation efforts
8. Trail Management Plan, including:
  - a. Draft copies of any proposed signage or marketing associated with the trail, including brochures, pamphlets, and Internet-based descriptions and images
  - b. Description of monitoring of the trail (how conditions on the trail will be monitored)
  - c. Maintenance protocol for the Licensed Trail (Section V, below):
    - i. Name, address, email, and telephone numbers of the person or persons who will coordinate maintenance activities on the trail
    - ii. Name, address, email, and telephone numbers of the person or persons who will communicate with the MassWildlife District Office regarding trail conditions and permission to perform maintenance activities.

#### **IV. Plan Review**

Once completed by the proponent, the Project Plans will be reviewed by MassWildlife within a reasonable time frame. MassWildlife may request (a) additional information and documentation or (b) alterations to the Project Plans. MassWildlife reserves the right to specify preferred trail maintenance, stewardship, and design parameters. If the Project Plans are approved, MassWildlife will prepare a Trail License Agreement for review and signature.

**V. MassWildlife Trail Standards**

1. Any improvements to a trail, including grading, surfacing, drainage, bridges, or other trail related structures must be consistent with the descriptions found in the Trails License Agreement or otherwise agreed to in writing by MassWildlife.
2. Hand tools or hand-held power tools are permitted pursuant to the Trail Management Plan specifying dates, location, and scope of work approved in advance by MassWildlife.
3. Trail surface shall consist of native materials only.
4. Maximum maintained trail tread of 2 feet.
5. Maximum maintained clearance width of 3 feet.
6. Maximum maintained clearance height of 8 feet. Canopy cover shall be maintained.
7. Blazing allowed with prior written consent of MassWildlife: maximum six inches wide; paint color to be approved by MassWildlife.
8. No signs allowed other than those provided or approved by MassWildlife; certain signage may be required to be posted and maintained as a condition of a license, including signage at points of entry onto a WMA addressing MassWildlife's statutory mandates and indicating that the property is open to hunting, fishing, and trapping.
9. Gates or other barriers shall be required to deter illegal motorized vehicle usage or other inappropriate forms of access as a condition of a license.
10. Wetland crossings are strongly discouraged, but may be considered if approved in advance by MassWildlife and, if necessary, by the local Conservation Commission.
11. All approvals shall be issued by the Director of MassWildlife or his or her designee.

**EXHIBIT 1**

**WILDLIFE LANDS**

**POLICY OF THE COMMONWEALTH OF MASSACHUSETTS**

**DIVISION OF FISHERIES AND WILDLIFE**

**Approved by the Fisheries & Wildlife Board**

**August 23, 2016**

The Massachusetts Division of Fisheries and Wildlife (MassWildlife) is charged by statute with the biological protection and management of all inland fish, wildlife, and rare species in the Commonwealth. MassWildlife is also directed by statute to manage and provide wildlife-dependent recreational opportunities for the public, including hunting, fishing, and trapping. In pursuit of these statutory mandates, more than 150,000 acres have been purchased in fee using bond capital and Land Stamp funds as of the date of this policy. These areas are managed by MassWildlife as Wildlife Management Areas (WMAs) and Access Areas. This management requires a careful balance between the protection of wildlife resources and public access. It is against the backdrop of these statutory mandates that this Wildlife Lands Policy has been developed.

MassWildlife's mission is unique among government agencies, municipalities, and private conservation organizations. No other level of government or private organization bears the statutory responsibilities of protecting the Commonwealth's biodiversity as well as providing opportunities for wildlife-dependent recreation. Although the total acreage held in fee and managed by MassWildlife is substantial, it is only a small fraction of the land area of the Commonwealth. The 150,000 acres presently conserved as WMAs and Access Areas is a tiny percentage of the roughly 5.2 million acres of land in the state. Given the relatively small number of acres of these conserved areas in comparison to the total area of the state, MassWildlife needs to be very careful about how it manages and protects these areas. In particular, it means these areas should be managed so that biodiversity and wildlife-dependent recreational opportunities are not compromised. Practically, it also means that MassWildlife's management of its WMAs should guard against the rapidly growing public demand for outdoor recreational activities that may adversely affect biological stewardship, alter wildlife dynamics, and interrupt wildlife-dependent recreation.

Accordingly, MassWildlife hereby establishes this Wildlife Lands Policy, which sets out the agency's essential perspective on permissible land uses on its WMAs and Access Areas. Henceforth, management decisions regarding proposed activities and uses on WMAs and Access Areas shall be measured in terms of consistency with the statutory mandates of protecting wildlife resources as well as managing and providing wildlife-dependent recreational opportunities, including hunting, fishing, and trapping. Under this Wildlife Lands Policy, MassWildlife shall also seek to: (1) maintain its WMAs and Access Areas by prioritizing fish, wildlife, and rare species consistent with the wildlife and habitat management goals established by the Fisheries and Wildlife Board; (2) encourage stewardship that advances this standard; and (3) discourage activities that compromise this standard.

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**EXHIBIT 2**

**COMMONWEALTH OF MASSACHUSETTS**

**DIVISION OF FISHERIES AND WILDLIFE**

**TRAIL LICENSE AGREEMENT**

Dated: \_\_\_\_\_

**LICENSOR:** Commonwealth of Massachusetts, Department of Fish and Game, Division of Fisheries and Wildlife, 251 Causeway Street, Suite 400, Boston, MA 02114

**License Administrator:** Division of Fisheries and Wildlife, (\_\_\_\_\_) Wildlife District Manager, (address and phone number)

**LICENSEE:**

**PREMISES:** (\_\_\_\_\_) Wildlife Management Area

**I. PURPOSE AND USE:** Entry and use are specifically granted for the locations, purpose and conditions as shown in Exhibits A and B.

**II. TERM:** (no longer than 5 years)

**III. CONSIDERATION:** None, other than the reciprocal promises contained herein.

**IV. DUTIES OF LICENSEE:** Licensee agrees to be bound by the terms of Exhibit A and the Wildlife Management Area Regulations (321 CMR 3.00 *et seq.*). Licensee further agrees to: carry out its activities so as not to interfere with the purposes for which Premises are held and managed (50 CFR 80.18); not block public access; not erect signs or structures except as specifically authorized herein ; not store or discard hazardous materials; remove all equipment when not in use; not transfer, lease or sublet activities licensed herein; not use lethal control of wildlife beyond open, regulated hunting seasons; and restore Premises to its original condition as determined by Licensor upon completion of the uses authorized.

**V. DUTIES OF LICENSOR:** Licensor shall not permit any obstruction to the use by the Licensee of the Premises except as provided for herein.

**VI. INDEMNIFICATION:** The signing of this License by Licensee shall constitute the Licensee's acceptance of complete liability for the actions or omissions of the Licensee while present upon the Premises.

The Licensee shall defend, indemnify, and hold harmless the Commonwealth from and against any and all claims or costs whatsoever arising from or related to the exercise by the Licensee and/or its members, employees, agents or invitees, of any privileges granted hereby. Both parties hereto acknowledge

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that the Licensors shall not be liable for any costs or claims arising from the actions or omissions of the Licensee and/or its or invitees.

The Licensee for itself and for its members, employees, agents and invitees, expressly agrees not to make any claims against the Commonwealth of Massachusetts for any injury, loss, or damage to person (including bodily injury and death) or property arising out of or in connection with the activities undertaken or omissions to act by the Licensee and/or its members, employees, agents, and invitees, as hereby licensed.

**VII. INSURANCE:** The Licensee shall maintain comprehensive liability insurance, with coverage for bodily injury, wrongful death, and property damage, to support the obligation of the Licensee to indemnify the Commonwealth of Massachusetts. The Licensee shall immediately notify the Licensors in writing if any of the required insurance coverage has been modified, terminated, or expired. Licensee shall provide Licensors with certificates evidencing such insurance, if deemed necessary by the Commonwealth.

**VIII. CONDUCT:** Licensee shall conduct themselves in accordance with directives from the Licensors and comply with all applicable laws, regulations, and policies. If requested the Licensee shall provide the Licensors with a directory of emergency personnel and telephone numbers.

**IX. TERMINATION BY REVOCATION:** If any of the terms and provisions of this License are breached or violated as determined by the Licensors, then this License shall be subject to termination by revocation by the Licensors. If the Licensors so elects to terminate this License by revocation in the event of such a breach or violation, the Licensors shall forward by certified mail a written notice of revocation, detailing the breach or violation in each instance.

The Licensee shall have ten (10) days from the receipt of said written notice of revocation to remedy or cure such breach or violation to the reasonable satisfaction of Licensors. At the end of said ten-day period, if the Licensee has not remedied or cured such breach or violation to the reasonable satisfaction of the Licensors, then this License shall be deemed terminated, effective on that date when said ten-day period expires, and the Licensors shall forward a written notice evidencing such termination to the Licensee by certified mail, return receipt requested.

If the Licensee remedies or cures such breach or violation during said ten-day period to the reasonable satisfaction of the Licensors, then the Licensors shall duly notify the Licensee by certified mail that this License shall continue in full force and effect.



**X. NOTICE:** For purposes of this License, the parties shall be deemed duly notified if notice is made to the following:

Licensor: Division of Fisheries and Wildlife  
\_\_\_\_\_ Wildlife District  
District address and phone number

Licensee: \_\_\_\_\_

**XI. LEGAL REMEDIES OF LICENSOR:** Should this License Agreement be terminated by the Licensor, then Licensor shall have the right to take any reasonable action as may be necessary or appropriate, with or without order of court, to remedy or abate this violation hereof or otherwise enforce the terms hereof, as well as the right to enforce this License Agreement by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, it being agreed that the Licensor may have no adequate remedy at law.

If the Licensor obtains judgment from a court of law ruling that the Grantor has violated the terms of this License Agreement, the Licensee shall reimburse the Licensor for all reasonable costs and expenses incurred in connection with obtaining and enforcing such judgment, including reasonable counsel fees and reasonable costs incurred in remedying or abating the violation.

**XII. NO ESTATE CREATED:** This License shall not be construed as creating any estate in the Premises nor are any special rights or privileges conveyed beyond the scope of this License Agreement.

**XIII. EXHIBITS AND ATTACHMENTS:** All exhibits referenced herein or attached hereto are duly incorporated within this License Agreement.

**XIV. SURVIVAL OF TERMS AND PROVISIONS:** All appropriate terms and provisions relating to the removal of equipment, restoration of the property, and hazardous materials shall survive the termination of this License.

**XV. MODIFICATION:** Modification and/or amendments to this License Agreement shall be in writing and duly executed by both parties hereto to be effective.

**XVI. ANNUAL REPORT:** Licensee shall report annually to Licensor on or before [December 31] summarizing all trail maintenance work and any license non-compliance issues that have arisen in the previous year.

**IN WITNESS WHEREOF**, the parties hereto have caused this License Agreement to be executed as a sealed instrument in duplicate by their duly authorized representatives on the day and year above written.

LICENSOR: Commonwealth of Massachusetts  
Division of Fisheries and Wildlife

By: \_\_\_\_\_  
*District Manager*

For: Jack Buckley, Director

Date: \_\_\_\_\_

LICENSEE: \_\_\_\_\_

By: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Exhibit A: MassWildlife Trail Approval and Map of Licensed Trail

Exhibit B: Project Plans

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